

REMARKS

The Office examined claims 1, 3-10, 13, 15, 17-18, and 25-49 (i.e. 38 claims in all), and rejected same. Reconsideration is requested on the following grounds.

Rejections under 35 USC §102

At section 3 of the Office action, claims 27, 32, 34, 39-40, 42 and 44 are rejected under 35 USC 102(e) as being anticipated by Fukasawa (US Pub. No. 20060133307).

All of the pending claims include as limitations (directly or by virtue of their dependencies) storing bearers for a contact indicated by an identifier (i.e. the contact is indicated by the identifier), and storing the bearers so as to be associated with the contact via the identifier for the contact, and then using the identifier for determining bearers to try in establishing a connection with the contact.

In particular, claim 27 recites a method, comprising: storing in a contacts bearer data store a plurality of bearers forming a list of possible bearers for a contact that is indicated by an identifier in the contacts bearer data store, wherein the bearers are for use in communicating with the contact and are stored in the contacts bearer data store so as to be associated with the contact via the identifier; and selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier, and attempting to establish communication with the contact using the selected bearer.

Applicant has argued that Fukasawa simply teaches storing a list of bearers. There is no teaching of storing an associated contact, as required by the claims. The bearers are certainly of potential use in establishing a connection with a contact, but not any particular contact, i.e. the bearers are not stored so as to be associated with any particular contact, as required by the

rejected claims. Fukasawa teaches a bearer selection table (see Fig. 10), but the table associates bearers with applications (e.g. mail), not contacts. It shows that the user of the device prefers, for the mail application, GPRS-A as the bearer, WLAN as the next option, and finally GSM-B. This is not at all the same as what is required by the subject claims; there is simply no teaching or suggestion of storing a list of bearers for a particular contact, as required by the subject claims. Such a list is illustrated as table 11d in Fig. 1, showing a first contact, having identifier C1-ID, and indicating a list of bearers for the first contact, the first bearer of the list having an identifier C1-B1-ID, and so on.

In response, the Office has asserted that:

Fukasawa disclose that when mobile endpoint 12 performs an outgoing call, e.g. voice call or download image; and an application/ bearer management detects an active application (voice call or download image) based on the outing call. From the active application, the application/ bearer management used a bearer configuration table and a bearer selection table (see Fig. 9 to Fig. 13) to assign at least one of plurality available bearers (see paragraph 0081 to paragraph 0082), e.g. GSM-A, GSM-B, WLAN and GPRS-B, corresponding to the active application (voice call or download image) (see paragraph 115 to paragraph 128). It should be noted that the table including association information, e.g. bandwidth, latency, BER, reliability and cost. It is inherent that the association information including a network address of each bearer for connection between mobile endpoint and bearers. The applicant's attention is directed do the disclosure of the reference Fukasawa et al., paragraph 0094 to paragraph 0148.

Second, Applicant used a particular words recited in the claims, e.g. "association information" and "contact". During patent examination, the pending claims must be given their broadest reasonable interpretation. ...

Here are paragraphs 0081 to 0082:

[0081] As also shown in FIG. 1, according to the present invention it is proposed to combine heterogeneous wireless communication bearer services for support of active applications--e.g., multimedia applications divided into voice, data, image, etc.--running at the mobile endpoint 12.

[0082] For the example shown in FIG. 1, there may be achieved a total bandwidth of 5 Mbps through combination of

the Wireless LAN network providing 3 Mbps, the Hyper LAN providing 77 kbps, WCDMA providing 1.9 Mbps and GSM providing 23 kbps of bandwidth.

Thus, the paragraphs relied on for a teaching of "assign[ing] at least one of plurality available bearers" in fact teach quite the opposite. They teach using all available bearers, in combination, to achieve greater bandwidth than any single one of the bearers could provide.

Further, in respect to the interpretation of "association information" and "contact," while applicant does not in any way dispute that the pending claims must be given their broadest reasonable interpretation, applicant respectfully submits that the claims define the subject terms in a way that makes the interpretation by the Office unreasonable.

Considering claim 27, and taking the term "contact," since claim 27 recites "the bearers are for use in communicating with the contact," a "contact" must at least be an entity that can be contacted. Since the Office asserts that "the application/ bearer management used a bearer configuration table and a bearer selection table (see Fig. 9 to Fig. 13) to assign at least one of plurality available bearers (see paragraph 0081 to paragraph 0082), e.g. GSM-A, GSM-B, WLAN and GPRS-B, corresponding to the active application (voice call or download image)," it appears that the Office is equating an "active application" to a "contact." But the claims require that whatever interpretation might be given, a contact must at least be an entity that can be contacted, and to say that an "active application" can be contacted is nonsensical, since the "active application" is using the selected bearer to establish communication. Hence the interpretation of "contact" made by the Office is unreasonable.

Next, again considering claim 27, and this time taking the term "association information," claim 27 nowhere simply refers to ... but instead recites "stor[ing] ... the contacts bearer data store

so as to be associated with the contact via the identifier [that indicates the contact]." Thus, in claim 27, there is a requirement of an act of storing a plurality of bearers each of which is associated with a contact, where a contact is an entity that can at least be contacted. There is no such disclosure in Fukasawa, and the Office nowhere asserts there is, but instead interprets contacts so as to read claim 27 on the disclosure of Fukasawa, i.e. it unreasonably interprets a contact to be (as applicant understands the Office action) an "active application."

Claim 1, though, does recite the term "association information." Although claim 1 is not rejected as anticipated by Fukasawa, but instead based on a combination of references including Fukasawa as set out below, nevertheless claim 1 is discussed here in respect to the term "association information."

Claim 1 defines the subject term since claim 1 recites "storing in a contacts bearer data store association information for a contact that is indicated in the contacts bearer data store by an identifier, the association information including a list of at least two possible bearers for providing a connection to the contact, wherein each of the at least two possible bearers for the contact is stored so as to be associated with the contact via the identifier for the contact." So whatever association information is, it is at least a list of two or more bearers for providing a connection to a contact, and is stored so as to be associated with the contact via the contact identifier. Also, claim 1 requires that a contact again be an entity that can at least be contacted, which cannot be said of "an active application." Thus, the term "association information" has a well-defined meaning that cannot reasonably be asserted as encompassing what the Office asserts, which, as applicant understands the Office action (from page 13, first paragraph), appears to be "bandwidth , latency, BER, reliability and cost." While such information may be included in "association information" (where it might be provided for each

bearer), it does not include the contact identifier and so cannot be asserted to be the "association information" recited in claim 1 based on the meaning of that term provided by claim 1 itself. Applicant sees that in the formal rejection of claim 1, at page 6 of the Office action, the Office appears to equate "association information" to information indicating "active bearers and active applications." This still does not include the contact identifier as required by claim 1, according to the meaning of "contact" provided by claim 1. Thus, the interpretation(s) of "association information" made by the Office is (are) unreasonable.

Further still, in respect to the interpretation of the disputed terms "association information" and "contact," applicant respectfully submits that it is proper and necessary for the Office to look to the specification to interpret these terms. The Federal Circuit, in *Phillips vs. AWH Corp.*, 415 F.3d 1303, 75 USPQ.2d 1321 (Fed. Cir. 2005), an *en banc* decision, explained again that:

[T]he specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.

The court further explained:

That starting point [for understanding a claim term] is based on the well-settled understanding that inventors are typically persons skilled in the field of the invention and that patents are addressed to and intended to be read by others of skill in the pertinent art. ... Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.

The application is replete with examples that make clear that a contact is a person that a user might wish to communicate with, i.e. contact. In particular, at page 8, line 4, the application provides:

To automatically select the bearer for providing the connection 14, NS 11a refers to a data store 11d of bearer information (called here a contacts bearer data store)

arranged by contact, i.e. by a name or identifier used to indicate a party.

Thus as used in the application, a "contact" is a party, i.e. a person or perhaps a business or organization, and so a "contact" cannot be said to encompass an "active application." Applicant respectfully urges the Examiner to restrict the interpretation of "contacts" so as to encompass parties to be contacted but not active applications that us a bearer for communication with a party, irrespective of the party being contacted.

In addition to the above arguments, applicant also respectfully maintains all arguments made in response to the previous Office action in regard to the claims rejected under 35 USC section 102./

For the reasons given, applicant respectfully requests that the rejections under 35 USC §102 be reconsidered and withdrawn.

#### Rejections under 35 USC §103

At section 5 of the Office action, the other pending claims are rejected under 35 USC 103 as being unpatentable over Fukasawa in view of Kukkohovi (US Pat. No. 6,119,003).

As argued above, Fukasawa does not disclose bearers stored so as to be associated with contacts as that term is defined by claim 1, and thus does not disclose the "association information" recited in claim 1. The same argument applies to all the other claims rejected under 35 USC 103. (Applicant also respectfully maintains all arguments made in response to the previous Office action in regard to the claims rejected under 35 USC section 103.)

Accordingly, applicant respectfully requests that the rejections under 35 USC §103 be reconsidered and withdrawn.

#### Conclusion


For all the foregoing reasons it is believed that all of the claims still pending are in condition for allowance and their

passage to issue is earnestly solicited. Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

Respectfully submitted,

14 December 2006

Date

  
James A. Retter  
Registration No. 41,266

WARE, FRESSOLÀ, VAN DER SLUYS  
& ADOLPHSON LLP

755 Main Street, P.O. Box 224  
Monroe, CT 06468-0224

tel: (203) 261-1234  
Cust. No.: 004955